

## § 10.739

to be used as retail packaging for good C. As provided in §10.735(a)(1) of this subpart, the value of the blister packages is their adjusted value, which in this case is \$10. Good C has a regional value content requirement. The United States importer of good C decides to use the build-down method,  $RVC = ((AV - VNM)/AV) \times 100$  (see §10.734(b) of this subpart), in determining whether good C satisfies the regional value content requirement. In applying this method, the non-originating blister packages are taken into account as non-originating. As such, their \$10 adjusted value is included in the VNM, value of non-originating materials, of good C.

*Example 2.* Same facts as in Example 1, except that the blister packages are originating. In this case, the adjusted value of the originating blister packages would *not* be included as part of the VNM of good C under the build-down method. However, if the U.S. importer had used the build-up method,  $RVC = (VOM/AV) \times 100$  (see §10.734(c) of this subpart), the adjusted value of the blister packaging would be included as part of the VOM, value of originating materials.

### § 10.739 Packing materials and containers for shipment.

(a) *Effect on tariff shift rule.* Packing materials and containers for shipment, as defined in §10.729 (n) of this subpart, are to be disregarded in determining whether the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in General Note 28(n), HTSUS. Accordingly, such materials and containers are not required to undergo the applicable change in tariff classification even if they are non-originating.

(b) *Effect on regional value content calculation.* Packing materials and containers for shipment, as defined in §10.729(n) of this subpart, are to be disregarded in determining the regional value content of a good imported into the United States. Accordingly, in applying the build-down, build-up, or net cost method for determining the regional value content of a good imported into the United States, the value of such packing materials and containers for shipment (whether originating or non-originating) is disregarded and not included in AV, adjusted value, VNM, value of non-originating materials, VOM, value of originating materials, or NC, net cost of a good.

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*Example.* Australian Producer A produces good C. Producer A ships good C to the U.S. in a shipping container which it purchased from Company B in Australia. The shipping container is originating. The value of the shipping container determined under section §10.735(a)(2) of this subpart is \$3. Good C is subject to a regional value content requirement. The transaction value of good C is \$100, which includes the \$3 shipping container. The United States importer decides to use the build-up method,  $RVC = (VOM/AV) \times 100$  (see §10.734(c) of this subpart), in determining whether good C satisfies the regional value content requirement. In determining the AV, adjusted value, of good C imported into the U.S., paragraph (b) of this section and the definition of AV require a \$3 deduction for the value of the shipping container. Therefore, the AV is \$97 (\$100 – \$3). In addition, the value of the shipping container is disregarded and not included in the VOM, value of originating materials.

### § 10.740 Indirect materials.

An indirect material, as defined in §10.729(h) of this subpart, will be considered to be an originating material without regard to where it is produced, and its value will be the cost registered in the accounting records of the producer of the good.

*Example.* Australian Producer C produces good C using non-originating material A. Producer C imports non-originating rubber gloves for use by workers in the production of good C. Good C is subject to a tariff shift requirement. As provided in §10.730(b)(1) of this subpart and General Note 28(n), each of the non-originating materials in good C must undergo the specified change in tariff classification in order for good C to be considered originating. Although non-originating material A must undergo the applicable tariff shift in order for good C to be considered originating, the rubber gloves do not because they are indirect materials and are considered originating without regard to where they are produced.

### § 10.741 Third country transportation.

(a) *General.* A good that has undergone production necessary to qualify as an originating good under §10.730 of this subpart will not be considered an originating good if, subsequent to that production, the good undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve

the good in good condition or to transport the good to the territory of a Party.

(b) *Documentary evidence.* An importer making a claim that a good is originating may be required to demonstrate, to CBP's satisfaction, that no further production or subsequent operation, other than permitted under paragraph (a) of this section, occurred outside the territories of the Parties. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

#### ORIGIN VERIFICATIONS AND DETERMINATIONS

##### § 10.742 Verification and justification of claim for preferential treatment.

(a) *Verification.* A claim for preferential tariff treatment made under § 10.723(a) of this subpart, including any statements or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director is provided with insufficient information to verify or substantiate the claim, the port director may deny the claim for preferential treatment. A verification of a claim for preferential treatment may be conducted by means of one or more of the following:

- (1) Requests for information from the importer;
- (2) Written requests for information to the exporter or producer;
- (3) Requests for the importer to arrange for the exporter or producer to provide information directly to CBP;
- (4) Visits to the premises of the exporter or producer in Australia, in accordance with procedures that the Parties adopt pertaining to the verification; and
- (5) Such other procedures as the Parties may agree.

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, CBP will apply and accept the Gen-

erally Accepted Accounting Principles applicable in the country of production.

##### § 10.743 Special rule for verifications in Australia of U.S. imports of textile and apparel goods.

(a) *Procedures to determine whether a claim of origin is accurate.* For the purpose of determining that a claim of origin for a textile or apparel good is accurate, CBP may request that the government of Australia conduct a verification, regardless of whether a claim is made for preferential tariff treatment. While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action which may include suspending the application of preferential tariff treatment to the textile or apparel good for which a claim of origin has been made. If an exporter, producer, or other person refuses to consent to a visit as provided for in this paragraph, or if CBP is unable to make the determination described in this paragraph within 12 months after a request for a verification, or CBP makes a negative determination, CBP, if directed by the President, may take appropriate action which may include denying the application of preferential tariff treatment to the textile or apparel good subject to the verification, and to similar goods exported or produced by the entity that exported or produced the good.

(b) *Procedures to determine compliance with applicable customs laws and regulations of the U.S.* For purposes of enabling CBP to determine that an exporter or producer is complying with applicable customs laws, regulations, and procedures in cases in which CBP has a reasonable suspicion that an Australian exporter or producer is engaging in unlawful activity relating to trade in textile and apparel goods, CBP may request that the government of Australia conduct a verification, regardless of whether a claim is made for preferential tariff treatment. A "reasonable suspicion" for the purpose of this paragraph will be based on relevant factual information, including information of the type set forth in Article 6.5 of the AFTA, which indicates